

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**JOHN CARROLL and
DAWN CARROLL,
Plaintiffs**

v.

**COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT
OF TRANSPORTATION, VALLEY
QUARRIES, INC., and NEW
ENTERPRISE STONE & LIME CO.,
INC.,
Defendants**

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No. 1:22-cv-00242

(Judge Kane)

ORDER

AND NOW, on this 24th day of July 2024, upon consideration of Defendants Valley Quarries, Inc. and New Enterprise Stone & Lime Co., Inc.¹ (“Valley Quarries et al.”)’s motion for summary judgment (Doc. No. 49), Defendant Commonwealth of Pennsylvania, Department of Transportation (“PennDOT”)’s motion for summary judgment (Doc. No. 58) and Plaintiffs John Carroll and Dawn Carroll (“Plaintiffs”)’ responses thereto, and in accordance with the accompanying Memorandum, **IT IS ORDERED THAT**:

1. Valley Quarries et al.’s motion for summary judgment (Doc. No. 49) is **GRANTED**, and the Clerk of Court is directed to **DEFER** entry of judgment in favor of Valley Quarries et al. and against Plaintiffs until the conclusion of this case;
2. PennDOT’s motion for summary judgment (Doc. No. 58) is **GRANTED in part** and **DENIED in part**, as follows:
 - a. PennDOT’s motion (Doc. No. 58) is **GRANTED** as to Plaintiffs’ claim of

¹ Valley Quarries, Inc. is a fictitious name owned by New Enterprise Stone & Lime Co. Valley Quarries, Inc. was merged into New Enterprise Stone & Lime Co., effective August 5, 2010. (Doc. No. 50 at 1 n.1.)

vicarious liability (Count II) and the Clerk of Court is directed to **DEFER** entry of judgment in favor of PennDOT and against Plaintiffs on Count II until the conclusion of this case; and

- b. PennDOT's motion (Doc. No. 58) is **DENIED WITHOUT PREJUDICE** as to Plaintiffs' remaining claims of negligence (Count I), negligent infliction of emotional distress (Count III), and loss of consortium (Count IV); and
3. A status telephone conference with Plaintiffs and PennDOT shall be held on **August 7, 2024 at 10:30 a.m.** to discuss potential deadlines for expert discovery. The telephone number of the Court for purposes of this call is 717-221-3990. Plaintiffs' counsel shall initiate the telephone call.

s/ Yvette Kane
Yvette Kane, District Judge
United States District Court
Middle District of Pennsylvania